

**STATE OF WYOMING
EXECUTIVE DEPARTMENT
EXECUTIVE ORDER**

**Order 2019-?
(Replaces 2015-4)**

GREATER SAGE-GROUSE CORE AREA PROTECTION

WHEREAS, the Greater sage-grouse (*Centrocercus urophasianus*) is an iconic western species that inhabits much of the sagebrush-steppe habitat in Wyoming and serves as an umbrella species for many of the state's species of greatest conservation need; and

WHEREAS, the sagebrush-steppe habitat type is abundant across the State of Wyoming, with the greatest populations of Greater Sage-grouse across its range; and

WHEREAS, the United States Department of the Interior has determined that listing the Greater sage-grouse range-wide as a threatened or endangered species is not warranted, placing management authority for the species solely with the State of Wyoming; and

WHEREAS, the listing of the Greater sage-grouse would have a significant, adverse effect on the species itself, land and natural resource management, and the economy of the State of Wyoming, including the ability to generate revenues from State lands; and

WHEREAS, the listing of the Greater sage-grouse would have a significant, adverse effect on the custom and culture of the State of Wyoming, and would substantially obstruct and conflict with ongoing and effective collaborative efforts to conserve Greater sage-grouse; and

WHEREAS, the State of Wyoming recognizes the necessity of a robust and scientifically rigorous system of monitoring and has developed and implemented a Greater Sage-grouse Core Area Protection strategy, including mechanisms to evaluate emerging science, data, and information resulting in updated management recommendations from the Sage Grouse Implementation Team; and

WHEREAS, Wyoming's Greater sage-grouse Core Area Protection strategy protects significant quantity and quality of Greater sage-grouse habitat across the state and protects a substantial portion of Wyoming's Greater sage-grouse; and

WHEREAS, the State of Wyoming, the Bureau of Land Management (2019 BLM ARMPA), the U.S. Forest Service, other land management agencies and private landowners have coordinated Greater sage-grouse Core Area Protection conservation actions across their boundaries which encompass approximately 15 million acres of habitat for the Greater sage-grouse in Wyoming; and

WHEREAS, Candidate Conservation Agreements with Assurances (CCAA) through the U.S. Fish and Wildlife Service as well as the Sage-Grouse Initiative (SGI) through the Natural Resources Conservation Service on private lands, complemented by Candidate Conservation Agreements (CCA) on public lands, are proven means of investing in the future of rural land management; and

WHEREAS, the Wyoming State Legislature, federal, state and local agencies, industry, conservation organizations, and landowners have dedicated significant time and resources to conserve Greater sage-grouse populations in Wyoming; and have shown the capacity and authority to manage for the species and its habitats on all lands by establishing oversight mechanisms and implementing management stipulations; and

WHEREAS, based on oversight and recommendations from the statutorily established Sage Grouse Implementation Team (W.S. § 9-19-101), this Executive Order is the State of Wyoming's primary regulatory mechanism to conserve the Greater sage-grouse and preclude the need for listing the bird as a threatened or endangered species pursuant to the Endangered Species Act of 1973;

NOW, THEREFORE, in consideration of the recommendations of the Sage-Grouse Implementation Team and pursuant to the authority vested in me by the Constitution and Laws of the State, and to the extent such actions are consistent with the statutory obligations and authority of each individual agency, including those found in the Wyoming Regulatory Takings Act, W.S. § 9-5-301 through 9-5-305, I, Mark Gordon, Governor of the State of Wyoming, do hereby issue this Executive Order providing as follows:

1. Agencies and departments of the State of Wyoming including, but not limited to, the Wyoming Game and Fish Department, the Office of State Land and Investments, Department of Environmental Quality, State Engineer's Office, Industrial Siting Council, Department of Transportation, and the Oil and Gas Conservation Commission, shall prioritize the maintenance and enhancement of Greater sage-grouse habitats and populations inside the Core Population Areas, connectivity areas, and winter concentration areas identified in Appendix B and Appendix C. State agencies shall strive to maintain consistency by following the procedures outlined in this Executive Order, while recognizing that adjustments to the stipulations may be necessary based upon local conditions, opportunities, and limitations. The goal is to maintain habitat and minimize future disturbance by co-locating proposed disturbances within areas already disturbed or naturally unsuitable (Appendix A).
2. Valid existing rights shall be recognized and respected. Activities existing or permitted in Core Population Areas prior to August 1, 2008, will not be required to be managed under Core Population Area stipulations. Activities existing or permitted prior to the date of Executive Order 2015-4 (July 29, 2015) and within Core Population Areas added as a result of Executive Order 2015-4 will not be required to be managed under Core Population Area density and disturbance thresholds (Appendix D). Examples of existing activities include oil and gas, mining, agriculture, processing facilities, housing, state and federal highways, and other uses that were in place prior to the development of the Core

Population Areas and other delineated habitats. Federal and state permitted activities, within a defined project boundary (such as a recognized federal oil and gas unit, drilling and spacing unit, mine plan, subdivision plat, state or federal highway right-of-way, utility right-of-way, grazing allotment, etc.), shall be allowed to continue within the existing boundary even if the use exceeds recommended density and disturbance thresholds. (Appendix A, Appendix E).

3. It is critical that existing land uses and landowner activities continue to occur in Core Population Areas, particularly agricultural activities on private lands. Functioning ranches and agricultural lands provide crucial ecological and habitat services to wildlife. The failure or loss of these areas could have damaging implications to wildlife and their habitats. For the most part, activities on private lands are not subject to state or federal agency review or approval. Only those activities which state agencies are required by state or federal law to review or approve are subject to review for consistency with this Executive Order. Core Population Areas have been mapped to include additional habitat beyond that strictly necessary to prevent the listing of Greater sage-grouse. The additional habitat included within the Core Population Area boundaries is adequate to accommodate continuation of existing land uses and landowner activities. Existing land uses and landowner activities deemed to have negligible or no impacts to Greater sage-grouse are exempt from review for consistency under this Executive Order (Appendix G).
4. Land uses and activities proposed inside Core Population Areas for which stipulations have not been developed in this Executive Order may be authorized on a case-by-case basis only when it can be demonstrated to the satisfaction of the permitting agency, and based upon recommendations made by the Wyoming Game and Fish Department that the activity will avoid negative impacts to Greater sage-grouse (Appendix E).
5. Development shall be conducted in a manner that recognizes and achieves an order of avoidance, minimization, and where appropriate, compensatory mitigation to assure the long-term sustainability and potential expansion of Greater Sage-grouse populations and habitats. Development consistent with the stipulations set forth in this Executive Order shall be deemed sufficient to demonstrate that the activity will not exceed Greater sage-grouse tolerance levels (Appendix E).
6. Habitat enhancement and required reclamation within Greater sage-grouse habitat is vital to restoring function to habitat that is marginal or unsuitable and areas disturbed by development activities. Incentives to conduct enhancements (e.g., juniper removal) and complete reclamation activities (e.g., seeding) during the appropriate time of year may include granting stipulation waivers, and should be evaluated on a case-by-case basis. (Appendix C).
7. Where consistent with the Greater sage-grouse conservation goals set forth herein, a non-regulatory approach should be used to influence management actions and activities within Executive Order delineated habitats. Permit stipulations should reflect unique localized conditions, including soils, vegetation, development type, predation, climate, and other local realities (Appendix A, Appendix E).

8. Fire suppression efforts and invasive species control and management in Core Population Areas should be emphasized, recognizing that other local, regional, and national suppression priorities may take precedence. Public and firefighter safety remains the number one priority for all fire management activities (Appendix C).
9. The State of Wyoming will support research of activities in winter concentration areas where biologically significant numbers of Greater sage-grouse are suspected of congregating outside Core population areas. Further, the State of Wyoming will develop appropriate local, science-based standards to manage disturbance in identified and mapped winter concentration areas (Appendix C).
10. To ensure continued sustainability of Wyoming's economy, all efforts to encourage, enhance, and prioritize development outside of Core Population Areas shall be made. State and federal agencies, with other relevant stakeholders, should work collaboratively to develop a strategic plan to achieve a beneficial balance between Greater sage-grouse protection and Wyoming's economy. Incentives, prioritization of projects outside of Core Population Areas, and streamlining permit processes should be considered (Appendix A).
11. State and federal agencies, including the U.S. Fish and Wildlife Service, Bureau of Land Management, U.S. Forest Service, Wyoming Game and Fish Department, and other stakeholders shall work collaboratively to ensure a uniform and consistent application of this Executive Order to maintain and enhance Greater sage-grouse habitats and populations (Appendix A).
12. The State of Wyoming will support voluntary enrollment and expanded coverage for conservation easements, Candidate Conservation Agreements with Assurances (CCAAs), Candidate Conservation Agreements (CCAs), and commensurate improvements and investments by the U.S. Department of Agriculture and the U.S. Fish and Wildlife Service, where appropriate. These efforts should be focused and prioritized to take place in Core Population Areas (Appendix A).
13. Local Working Groups will continue to be engaged through the Local Working Group Charter (Appendix A).
14. The State of Wyoming will engage in adaptive management that will include the involvement of state and federal land management and regulatory agencies as appropriate (Appendix I).
15. The State of Wyoming shall continue to monitor and document Greater sage-grouse populations and development activities to ensure that permitted activities under this authority do not result in negative impacts to Greater sage-grouse outside cyclical trends. State agencies shall report all conservation and permitted actions occurring within Greater sage-grouse Core Population Areas no later than 30 June annually, or more frequently, as determined necessary. The State of Wyoming shall work with federal,

state, county, private and non-governmental organization partners to collect data to determine the condition of each Core Population Area in relationship to the goals of the Wyoming's Greater sage-grouse Core Area Protection strategy (Appendix H).

16. Absent substantial and compelling information that adjustments are necessary to protect the integrity of the Greater sage-grouse Core Area Protection strategy, these Core Population Areas, connectivity areas, identified and mapped winter concentration areas, and protective stipulations identified in this Executive Order shall not be altered for a minimum of 7 years (Appendix B, Appendix E).
17. The State of Wyoming will manage and implement a compensatory mitigation procedure that recognizes the need for replacement, durability, additionality and other factors to assure the long-term sustainability of Greater Sage-grouse and their habitats (Appendix F).
18. This Executive Order, together with its attachments, constitutes Wyoming's strategy for the conservation of the Greater sage-grouse and their habitats. Appendices A through I are expressly adopted and incorporated by reference herein, and each shall have the full force and effect of this Executive Order. Amendment to any Appendix may be made without requirement that the full Executive Order be amended, provided the process follows the procedures outlined herein (Appendix A).

Given my hand and the Executive Seal of the State of Wyoming this ____ day of _____, 2019.

APPENDIX A: COORDINATION AND AGENCY COOPERATION

- Local Working Groups
- SGIT
- Federal Agencies
- State Agencies
- Local Government
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APPENDIX B: MAPS

- Core Area Boundaries w/ current GSG range in WY
- Winter Concentration Areas
- Connectivity Areas
- Utility Corridors

APPENDIX C: HABITAT DEFINITIONS

- Core, Non-Core, WCA, Connectivity
- Habitat Suitability
- Fire
- Invasive Species
- Habitat Assessment Framework
- Soil and Vegetation Enhancement and Reclamation

APPENDIX D: VALID EXISTING RIGHTS

- Existing permits
- Expired permits
- Permit renewal
- Leases
- DSUs
- Federal Units
- Utility corridors (transmission and pipeline)

APPENDIX E: PERMITTING

- DDCT
- Stipulations for development
- Avoidance, Minimization
- Exempt Activities
- Waivers, Exceptions and Modifications

APPENDIX F: COMPENSATORY MITIGATION

- Compensatory Mitigation Framework

APPENDIX G: DE MINIMUS ACTIVITIES

APPENDIX H: DATA COLLECTION AND REPORTING

APPENDIX I: ADAPTIVE MANAGEMENT